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United States
Environmental Protection
Agency

Assumption Request Approval Process

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Regulatory Requirements

- [40 CFR Part 233.1](#) (42 pp, [About PDF](#)) specifies the procedures EPA will follow, and the criteria EPA will apply, in approving, reviewing, and withdrawing approval of state or tribal programs under section 404 of the Act
- [CWA Section 404\(g\) Approval Process Flowchart](#) - This graphic depicts the assumption request approval process.

Overview of the Approval Process

Assumption package submitted to EPA

- 30 day EPA review for package completeness
 - Complete – state notified
 - Incomplete - package returned to state

120-day review period includes:

- Notification to the state or tribe that the request package is complete
- Copy of the assumption request sent to the U.S. Army Corps of Engineers (Corps), U.S. Fish and Wildlife Services (USFWS) and the National Marine Fisheries Service (NMFS) within 10 days
 - Comments due to EPA within 90 days
- Notice of assumption request published in Federal Register and newspapers
 - 45 day comment period minimum
 - Public hearing 30+ days after Federal Register notice published
- Tribal consultation, if needed

Regional review

- The Regional office coordintaes with EPA Headquarters
- EPA provides a response to comments in final Federal Register notice

- EPA provides direct response to Corps, USFWS, and NMFS
- Regional Administrator approves or denies a request

Regional Administrator approves or disapproves assumption request by day 120

- Approval requires EPA Headquarters concurrence
- This time limit may be extended by EPA and the state or tribe
- **Upon approval, the Regional Administrator notifies the state or tribe and publishes notice in the Federal Register**
- **If the program is not approved, the Regional Administrator notifies the state or tribe and lists any revisions that are necessary to obtain approval**

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